

## FACSIMILE

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TO	Jeffrey Fredman	March 5, 2004
NAME	Art Unit 1634	DATE
COMPANY/FIRM		571-273-0742
NUMBER OF PAGES INCLUDING COVER:	3	FAX #
FROM	Thomas M. Cunningham	CONFIRM FAX: <input type="checkbox"/> YES <input type="checkbox"/> NO
NAME	703-413-6563	205057US0
DIRECT PHONE #		OUR REFERENCE
		09/813,990
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## MESSAGE

PATENT, TRADEMARK AND COPYRIGHT LAW  
AND RELATED FEDERAL AND ITC LITIGATION

(703) 413-3000  
(703) 413-2220 FACSIMILE  
OBLONPAT@OBLON.COM  
WWW.OBLON.COM

Dear Examiner Fredman,

As discussed last Wednesday (3/3/04), this case would be permitted to issue in due course if we deleted part "bt" of Claim 18 and cancelled Claim 20, which also refers to "bt". The enclosed "Attachment to Examiner's Amendment" makes these changes as well as other clarifying changes to the claim set. Support for new dependent Claims 62 and 63 is found in original Claim 18 and support for new dependent Claims 64 and 65 in Claim 46. Accordingly, the Applicants do not believe that any new matter has been added.

Should these changes be acceptable, you are authorized to make them by Examiner's Amendment and permit the application to issue in due course.

With best regards,

Thomas M. Cunningham  
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.  
Registration No. 45,394

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Attachment to Examiner's Amendment 09/813,990

--1-17. (Cancelled)

18. (Currently Amended) A polynucleotide suitable for predicting the efficacy of interferon therapy using interferon  $\alpha$  and/or interferon  $\beta$  for treating an individual who suffers from hepatitis C virus, comprising a polynucleotide selected from the group consisting of:

- (at) the a polynucleotide of comprising Sequence ID No. 1;
- (bt) a polynucleotide having a nucleic acid sequence that is at least 99.83% identical to Sequence ID No. 1 and having MxA gene promoter activity; and
- (et) a complementary strand of the polynucleotide selected from the group consisting of (at) and (bt).

comprising the polynucleotide of SEQ ID NO: 1 (at), or  
comprising the complementary strand of the polynucleotide of SEQ ID NO: 1.

19. (Currently Amended) The polynucleotide of Claim 18, which comprises the polynucleotide of SEQ ID NO: 1 (at).

20-22. (Cancelled)

23. (Currently Amended) The polynucleotide of Claim 18, which comprises the complementary strand of the polynucleotide of SEQ ID NO: 1 (et).

24. (Currently Amended) The polynucleotide of Claim 18, further comprising at least one additional polynucleotide connected to said polynucleotide, the additional polynucleotide being selected from the group consisting of a promoter, an enhancer, an upstream activation sequence, a silencers, a upstream suppression sequence, an attenuator, a poly A tail, a nucleus transport signal, a Kozak sequence, an ISRE, a drug resistance factor, a gene of signal peptide, a gene of transmembrane domain, a gene of marker protein, a gene of interferon-responding protein, and a gene of interferon-non-responding protein.

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25-45. (Canceled)

46. (Previously presented) A vector comprising the polynucleotide of Claim 18.

47-61. (Canceled)

62. (New) The polynucleotide of Claim 19, which is suitable for predicting the efficacy of interferon therapy using interferon- $\alpha$  and/or interferon- $\beta$  for treating an individual who suffers from hepatitis C virus.

63. (New) The polynucleotide of Claim 23, which is suitable for predicting the efficacy of interferon therapy using interferon- $\alpha$  and/or interferon- $\beta$  for treating an individual who suffers from hepatitis C virus.

64. (New) A vector comprising the polynucleotide of Claim 19.

65. (New) A vector comprising the polynucleotide of Claim 23.

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## \* \* \* COMMUNICATION RESULT REPORT (MAR. 5 2004 4:48PM) \* \* \*

FAX HEADER: 4th FLR.

TRANSMITTED/STORED : MAR. 5 2004 4:47PM  
FILE MODE                   OPTION

937. MEMORY TX

ADDRESS

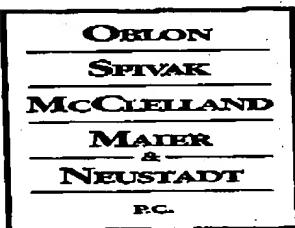
915712730742

RESULT

PAGE

OK

3/3

REASON FOR ERROR  
E-1) HANG UP OR LINE FAIL  
E-3) NO ANSWERE-2) BUSY  
E-4) NO FACSIMILE CONNECTION

ATTORNEYS AT LAW

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With best regards,

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